

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**KENESHA BARNES, ON BEHALF
OF THE ESTATE OF SHERRIE
BARNES,**

PLAINTIFF,

VS.

CIVIL ACTION NO. 3:03CV60-P-D

**KOPPERS, INC., F/K/A KOPPERS
INDUSTRIES, INC.; BEAZER EAST, INC;
ILLINOIS CENTRAL RAILROAD
COMPANY,**

DEFENDANTS.

RULINGS ON OBJECTIONS TO DEPOSITION DESIGNATIONS

These matters come before the court upon the parties' objections to deposition designations. Upon due consideration of same, the court **ORDERS AND ADJUDGES** that:

ANTHONY FOSTER

17:23-25 - (S)ustained

37:18 to 38:3 - S

49:13-18 - S

52:25 to 53:17 - (O)verruled

53:13-17 - O

53:18-21 - S

62:18-21 - S

62:24 to 63:6 - S

65:24 to 66:3 - S

95:1-8 - S

96:1-15 - S

96:16-20 - S

96:21 to 97:1 - S

245:19 to 246:8 - S

D.L. DAVIES

The court reserves rulings upon the three deposition excerpts of D.L. Davies pending an argument as to why this 1994 testimony for a case in Pennsylvania is relevant and admissible.

DR. DAVID HUNTER PHILLIPS

The court sustains the defendants objections to all of Dr. Phillips's testimony; no expert report filed and therefore pursuant to FRCP 26 and FRE 702, the testimony is inadmissible.

STEPHEN TRUMAN SMITH (3/8/05)

22:2-17 - S - concerns California plant, not Grenada plant

22:22-24 - S

23:1-20 - S

24:3-8 - S

31:2-16 - O

37:16 -24 - O

38:1-2 and 38:5-7 - O

45:6-12 - S

46:1-13 - S

46:1-13 - S

49:9 to 50:2 - O

108:17-19 - O

122:7-19 - S

134:3-5 - O

138:3-7 - S

139:1 to 140:10 - S

141:3-7, 141:10-22 - S

144:14-17, 144:22 to 145:1 and 9-11 - O

150:11-15 - O

162:7-16 - S

185:7-22 - O; goes to corporate knowledge of environmental standards of care

188:16-24 - S

190:9-17 - S

STEPHEN TRUMAN SMITH (3/15/05)

280:1-12 - S

327:3-23 - S

33:1 to 331:20 - O

335:16 to 337:14 - O

337:24 to 339:24 - O345:12-24 - S

352:19 to 420:16 - S - not tendered as an expert to critique Cheremisinoff's report

421:9-15 - S

422:16 to 423:18 - O

425:1-4 - S

426:1-23 - O

427:1-24 - S

502:1 to 503:24 - S

506:7 to 507:24 - S

508:1 to 509:7 - O

514:5-11 - S

514:12 to 5:17:24 - O

518:11 to 519:7 - S

521:17 to 525:24 - O - involves Smith's own report done in the court of his employment

526:1-23 - O

MICHAEL BOLLINGER

The court sustains Koppers/Beazer's objection to any testimony regarding activities at the Grenada plant and other plants after the date of Sherrie Barnes's death in 1998. Likewise, the court sustains the plaintiff's objection to designations by defendants regarding post-1998 practices.

17:1-6 - O

18:3 to 21:13 - S; does not concentrate on corporate knowledge of environmental standards of care but rather on contamination at other plants.

27:2 to 38:25 - S; same

39:6-13 - S

54:6-11 - O

55:11 to 56:25 - S; post-1998

58:1 to 59:4 - S; post-1998

61:10 to 62:13 - S; post-1998

68:7-20 - O

71:15-25 - O; not offered to prove the truth of the matter asserted

76:25 to 77:16 - O

81:5-14 - S

95:12-14 - O

104:3 to 105:18 - S

105:20 to 106:3 - S

106:4 to 114:2 - S

117 to 121 - O; basis unknown

123:11 to 124:22 - S

137:12-18 - O

139:4-12 - S

143:5 to 145:5 - S

150:10 to 151:2 - O

151:12-15 - O

151:25 - 152:4 - O

154:23 to 156:8 - S

156:9 to 158: 3 - O

158:3-13 - O

158:14 to 159:11 - O

162:1-13 - O

163:6-25 - O

165:6-18 - O

166:1 to 167:1 - O

167:5 to 170:2 - O

170:24 to 171:21 - O

172:7-18 - O

173:3-25 - S

174:1 to 175:2 - O

175:6-20 - S

176:2-16 - S

178:1 to 183:2 - O

183:19 to 185:1 - S

JILL BLUNDON
RAY OHLIS
JD “ROCK” CLAYTON
THOMAS HENDERSON
RANDALL COLLINS

Rulings dependent upon trial development – *i.e.*, whether these witnesses testify at trial

RICHARD ANTHONY VERKLER

Verkler is listed on ICR’s may-call list. Thus, if he testifies at trial, the deposition may not be used except to impeach.

9:1-2 - O

9:3-15 - O

21:10-15 - O

22:9-18 - S

40:24 to 41:3 - O

57:13-21 - O

58:7-14 - O

58:7-14 - S

66:4-15 - S

68:2-22 - S

77:1-3 - S

77:12-15 - O

78:3 to 79:3 - O

79:9-14 - S

80:7-14 - O

82:5-8 - S

83:7-9 - O

95:6-18 - O

96:2-9 - S

97:5-23 - O

98:20 to 100:6 - O

100:17-20 - O

101:11 to 102:1 - O

119:13 to 120:4 - S

123:5 to 125:3 - S

WILLIE CLYDE SPENCER

8:17 to 9:2 - O

9:8-9 - S

9:25-26 - S

14:1-7 - S

17:4-20 - O

19:13-17 - O

21:15-25 - S; groundwater evidence previously excluded

22:1-14 - S; same

23:14-25 - S; same

28:18-25 - S

29:5-10 - O

29:16-18 - S

29:19-21 - O

32:6-25 - S

45:2-15 - O

46:19-22 - O

47:3-6 - O

TIMOTHY R. BASILONE

Because Basilone did not work for Koppers until 1999, a year after Sherrie Barnes's death, the court will reserve rulings on this deposition pending argument as to relevance.

MICHAEL B. SYLVESTER

27:5-6 - O

38:14-20 - S

39:4-23 - S

40:23 to 42:15 - S

75:16-20 - S

78:17-20 - S

105:2-17 - S

110:24 to 111:11 - S

113:11-25 - O

116:9-17 - O

130:4-11 - S

155:11 to 156:9 - S

156:12-22 - O

187:7 to 188:3 - S

PATRICIA MCNEAL

None of the designations in Ms. McNeal's deposition are admissible; see orders regarding barrel burning and groundwater.

DAVID HILL

Court reserves ruling on these designations pending arguments as to why these designations are relevant.

The parties are instructed to edit any video depositions in compliance with this order immediately so as not to delay trial proceedings in any manner.

SO ORDERED, this the 14th day of April, A.D., 2006.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE